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QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD

Written statement*/ submitted by Article 19 - The International Centre Against Censorship, a non-governmental organization on the Roster

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[2 February 2000]

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*/ This written statement is issued, unedited, as received from the submitting non-governmental organization(s).

Despite some seemingly important reforms, notably the adoption of what the government called the "Liberty Laws" in 1990, which included a law setting up the National Commission on Human Rights and Freedoms, the 1996 removal of pre-publication censorship for the written media, and the 1997 incorporation of the Convention against Torture into Cameroonian legislation, there has been little real improvement in respect for human rights in Cameroon over the past decade.

Today, freedom of expression largely remains a mirage in Cameroon. The much-vaunted removal in 1996 of a prior censorship regime has been replaced by a system where the circumstances in which a newspaper can be banned or seized have been extended. No less serious, however, is the ongoing campaign of criminal prosecutions against journalists. Many others have been subject to short-term arrest and other forms of harassment. The government retains complete control over the broadcast media, as regulations that would have allowed private broadcasters to operate have never been adopted. The government of President Paul Biya remains intolerant of political opponents and has taken illegal steps to undermine their support.

PROSECUTIONS AND OTHER ATTACKS ON JOURNALISTS

Recent years have seen a series of prosecutions of journalists in connection with writings which have criticised public officials or public figures close to the government, usually in relation to alleged corruption or some other matter of high public interest. The use of criminal law to punish defamation is unacceptable and in practice is used primarily to restrict political criticism. An example follows:

The government has long targeted Pius Njawé and his newspaper, *Le Messager*. On 27 February 1996, Pius Njawé and Eyoum Ngangue, editor and journalist respectively of *Le Messager*, were convicted of defamation of and insult to the President and all members of the National Assembly, and required to pay a heavy fine. On 3 October 1996, the appeal court replaced the fine with prison sentences of six months and one year respectively.

Pius Njawé was actually imprisoned between 29 October and 15 November 1996, when the Supreme Court granted his request for provisional release pending the outcome of his appeal on the merits of the case. This final appeal was rejected on 16 April 1998, at which time Pius Njawé was again in jail in connection with another case (see below). Eyoum Ngangue was imprisoned from 22 January to 31 March 1997. The charges stemmed from an article published on 1 December 1995 criticising the draft amendments to the 1972 Constitution and cartoons satirising the government's preparations for the 1996 OAU Summit and speculating as to possible conflicts within the armed forces.[1] More recently, Pius Njawé was arrested on 24 December 1997 for an article that had appeared on 22 December 1997 in *Le Messager*, suggesting that the President was in ill health. This information came from reliable sources, according to Pius Njawé. On 13 January 1998 he was convicted of disseminating false news – although considerable doubt had been voiced about whether his comments were in fact erroneous – and sentenced to two years imprisonment and a fine. This was reduced to one year on appeal on 14 April 1998. An appeal on point of law (*pourvoi en cassation*) was lodged and the decision on 20 August 1998 by the Supreme Court confirmed his sentence. Finally, on 12 October 1998, after nearly 10 months in jail, Njawé was granted clemency by presidential decree. The clemency did not absolve Njawé of his criminal conviction and left his fine in place. It also did not compensate him for the time spent in prison.[2] Others who have tried to publicise Pius Njawé's case have themselves suffered reprisals (see below).

This is just one example of the many court cases against journalists. Others are provided in ARTICLE 19's report recent entitled: *HOLLOW PROMISES – Freedom of Expression in Cameroon since 1995*, October 1999. One result of this government strategy has been increasing self-censorship. In its report on Cameroon for 1998, the US State Department noted that "private journalists continued to practice greater self-censorship than they did before the Government's 1994-5 crackdown on the private press".

Such cases represent a dual breach of the international guarantee of freedom of expression. First, the subject matter of the impugned articles is speech which is protected by international law. Indeed, in many cases such subject matter is central to free political debate and an essential component of the public's right to know. Thus any sanction for this material is a violation of the ICCPR. In this regard, ARTICLE 19 considers that any prosecution for the offence of solely disseminating false news is a violation of the right to freedom of expression. Second, a prison sentence for defamation is itself excessive and hence a breach of the guarantee of freedom of expression. Even suspended sentences exert a significant chilling effect on journalists, particularly as any subsequent conviction may bring the sentence into effect. In addition, many journalists, like Evariste Menounga,

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[1] ARTICLE 19, *Cameroon: A Transition in Crisis* (London: October 1997).
[2] Amnesty International *Report 1998*, 122-5.

- who was arrested in March 1997 and spent two months in custody before being given a suspended prison sentence for disseminating false news and incitement to revolt after an article about disaffection in the armed forces - spend time in detention pending determination of their cases. Another disturbing aspect of these cases is that many spend a very long time on appeal to the Supreme Court. Although the sentence is often suspended pending the outcome of an appeal, during this period the journalist may for obvious reasons be deterred from engaging in legitimate criticism of government. Also, the sentence has often been increased on appeal.

In addition to the legal cases described above, many journalists have been arrested, questioned, detained without charge or subjected to attacks.

In March 1998, Brice Nitcheu, a journalist with the newspaper, *Bafang-Info*, who became involved in a committee set up to demand the release of Pius Njawé, was arrested while trying to fly out of the country with a colleague, Firmin Ngaleu. His documents were searched and the airport commissioner reportedly accused him of organising a campaign to sabotage the Cameroonian government. After a night in custody, he was released, but his passport was confiscated and he was ordered to report to the police every 48 hours. In July 1997 Brice Nitcheu, Firmin Ngaleu and Jean-Michel Nitcheu, who is Vice-President of the opposition party, the SDF, were excluded from Banka, the home area of Brice Nitcheu and Jean-Michel Nitcheu, after a traditional court tried them in their absence for insulting the Banka people and their leader. The traditional court went so far as to rule that when they die, they cannot be buried on Banka territory. The previous month, Brice Nitcheu and three employees at the printing press spent 21 days in prison without charge or trial in an apparent attempt to silence them at the time when the legislative election results were announced. This case also shows the need for a review of customary law so that it adequately reflects Cameroon's international human rights obligations. His full testimony is to be found in ARTICLE 19's October 1999 report.

None of these cases and incidents or the many other similar ones have been the subject of formal inquiries or investigations and none of the journalists involved have been compensated or even received an apology for their mistreatment.

ATTACKS ON THE OPPOSITION

In October 1999, more than 30 civilians were sentenced to terms of imprisonment after an unfair trial before a military tribunal in Yaoundé. They and the 29 defendants who were acquitted had been arrested in March 1997 in connection with a number of attacks on administrative and security officials in several towns in North West Province. Those arrested included members of the Southern Cameroons National Council (SCNC) and an affiliated organisation, the Southern Cameroons Youth League (SCYL). It has been suggested that the attacks, although portrayed by the government as the work of anglophone separatists, may have been carried out with government support either to discredit the SDF – a leading opposition party which draws its primary support from the West Province and the anglophone North West Province - or to provide a pretext for the

authorities to impose tougher security measures in the pro-SDF province as the 1997 elections approached.

The trial raised important concerns. At the first hearing in April 1999, the detailed charges were only available in French, despite the fact that the defendants were from the Anglophone North West of Cameroon; at least ten of those arrested are reported to have died as a result of abuse or lack of medical care and those held are all reported to have been repeatedly tortured and to suffer serious ill health as a result of these conditions; the defendants had no access to defence lawyers throughout the period of pre-trial detention and only limited access once the trial started earlier in 1999. An appeal has been lodged with the Court of Appeal in Yaoundé

SEIZURES, SUSPENSIONS AND BANS - ATTACKS ON THE PRINT MEDIA

A serious restriction on freedom of expression contained in the 1990 Law relating to freedom of mass communication, as amended in 1996[3], is the power to seize and ban newspapers.

Pius Njawé's newspaper, *Le Messager*, has frequently been seized, either throughout the whole country or in certain locations. The seizure of a newspaper is clearly a dramatic interference with freedom of expression and ARTICLE 19 is of the view that such measures can rarely, if ever, be justified under international law. The illegitimacy of the seizures in Cameroon is clear from the fact that they are almost always in response to articles which are critical of government. Indeed, seizures often appear to be in the nature of reprisals rather than preventive action, being applied some days after the purportedly offending issue was published. Sometimes a subsequent issue is seized. It is, therefore, quite clear that maintaining public order is not the primary goal. The threat posed by suspensions and bans is exacerbated by the arbitrary fashion in which the law is applied in Cameroon. In some cases suspensions, even when ordered by courts, are not enforced but remain as an ongoing deterrent threat against the newspaper. This was the case, for example, with *Generation* newspaper, suspended for six months on 3 May 1996 at the same time as the managing director was sentenced to five months' imprisonment for defamation and injury. The article in question suggested that an oil company president had been engaged in corrupt activities. In other cases seizures continue even after a court has ordered them to cease. In the case of *Mutations*, a ban imposed by the authorities on 24 June 1997 was lifted by a court on 4 July 1997. Despite this seizures continued.[4]

Article 8 of the 1990 Law provides that every newspaper must have a director. This provision, which may seem reasonably innocuous, was used by the Minister of the Territorial Administration to close down *Le Nouvel Indépendant* in October 1996. The newspaper's director, Ndzana Seme, went into hiding after his sentence for contempt of the head of state and inciting revolution was increased to one year's imprisonment by the

[3] Law No 90/052 of 19 December 1990 was amended by law No 96/04 of 4 January 1996.

appeal court on 27 October 1995. He fled Cameroon in February 1996. As a result of these events, the newspaper did not have a director and this was used as a justification for its closure in October 1996.

GOVERNMENT CONTROL OF THE BROADCAST MEDIA

Radio and television broadcasting continues to be a virtual monopoly of the State broadcaster, the Cameroon Radio-Television Corporation (CRTV). Regulations to implement the provisions in the1990 Law mandating the licensing of private broadcasters have never been promulgated, despite a promise made in Cameroon's 1993 report to the Human Rights Committee to publish them "shortly".[5] Since these provisions explicitly require private broadcasters to have a licence, it has so far been impossible to establish a private broadcasting company. Due to a loophole in the law, which requires private but apparently not necessarily community broadcasters to have a licence, a Canadian-funded project to set up five rural radio stations has been approved. However, these pose only a minor threat to the government monopoly as they are in remote, thinly populated areas of the country.

The lack of structural and editorial independence is reflected in the partisan approach of the CRTV, which tends to act as a mouthpiece of government rather than as a servant of the public interest. This bias, particularly apparent in its reporting during election periods, is also manifest at other times. The US State Department report notes: "Government reporters rarely criticise the ruling party or portray government programs in an unfavourable light, but sometimes do so implicitly. The government-controlled broadcast media provide broad reporting of the ruling Cameroon People's Democratic Movement (CPDM) functions, while giving relatively little attention to opposition events".

CONCLUSION

The Human Rights Committee considered Cameroon's third period report in October and November 1999. Its concluding observations included nineteen subjects of concern many of which are echoed in ARTICLE 19's October 1999 report. The Human Rights Committee raised concerns:

- about the continued use of torture by police officials and about the absence of an independent organ for investigation;
- about the jurisdiction of military courts over civilians and about the extension of military jurisdiction to offences which are not per se of a military nature;
- that citizens' passports can be seized by the police on the order of the public prosecutor;

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[5] *Second periodic reports of States parties due in 1990: Cameroon*, 5 April 1993, UN Doc.

- that prison conditions are characterised by severe overcrowding, and inadequate food and medical care; and
- about the prosecution and punishment of journalists for the crime of publication of false news merely on the grounds, that the news was false.

The Committee also:

- expressed concern in respect of Cameroon's "follow-up on the Committee's decisions on an individual case Mukong v. Cameroon (Case No. 468/1991), where the Committee established a violation of the Covenant. In particular, the Committee does not consider it appropriate to expect a person found to be a victim of a human rights violation to have to submit still more information to the Cameroonian courts in order to obtain compensation.", and
- regretted that the independence of the National Commission on Human Rights and Freedoms is not ensured and that its reports to the Head of State are not made public and that there is no evidence that any remedies have been provides or prosecutions initiated as a result of its work.

The Cameroon government's apparent disregard for international efforts to scrutinise its human rights record was also demonstrated by the fact that the life of two human rights activists, Abdoulaye Math and Semdi Soulaye, who had met the UN Special Rapporteur on Torture on his visit to Cameroon in May 1999, was subsequently threatened by security officials.[6] At the time of writing, another member of the same human rights organisation, Maurice Tchambou, is held incommunicado by the brigade anti-gang. He was arrested on 21 November 1999 by the gendarmerie and since that time he has twice been handed over to the custody of the brigade anti-gang. His current return to their custody coincided with a visit by two leading members of the organisation to London. His arrest appears to be solely connected to his work as a human rights activist. The brigade anti-gang, a joint military and gendarmerie unit set up to combat armed robbery, was also criticised by the Human Rights Committee, which raised concerns about allegations of widespread extrajudicial executions, particularly in connection with the operation by security forces to combat armed robbery.

ARTICLE 19's KEY RECOMMENDATIONS TO THE UN COMMISSION ON HUMAN RIGHTS

We call upon the Commission to

- to urge the Cameroon government to end all attacks on freedom of expression; and
- to ensure that the Cameroon government urgently implements all necessary reforms to address concerns raised by the Human Rights Committee and any recommendations made by the Special Rapporteur on Torture in his report on Cameroon.